

SPECIAL PROVISIONS

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308 — EROSION AND SEDIMENT CONTROL

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**CATEGORY 300
DRAINAGE****SECTION 308 — EROSION AND SEDIMENT
CONTROL****308.01 DESCRIPTION.**

242 **DELETE:** The third paragraph, “The Contractor shall...Control Manager (ESCM).”

INSERT: The following.

The Contractor shall assign an employee to the project to serve in the capacity of Erosion and Sediment Control Manager (ESCM). The ESCM and the superintendent shall have successfully completed the Administration’s Erosion and Sediment Control Certification Training for Contractors and Inspectors. This certification shall be current at all times. If the certification is expired or revoked for either person, the Contractor shall immediately replace the person with an appropriately certified person acceptable to the Administration.

243 **DELETE:** 308.01.02 Quality Assurance Ratings in its entirety.

INSERT: The following.

308.01.02 Quality Assurance Ratings. All Administration projects requiring Erosion and Sediment Control measures will be inspected by a Quality Assurance Inspector to ensure compliance with the approved Erosion and Sediment Control Plan. The Contractor shall obtain all appropriate permits and approvals; demarcate Limits of Disturbances, wetland and wetland buffers, floodplains and tree protection areas as specified in Section 107; and shall proceed in conformance with the approved Erosion and Sediment Control Plan and schedules. Projects will be inspected at least every 2 weeks and the scores reported on Form No. OOC61, Erosion and Sediment Control Field Investigation report. The Quality Assurance Inspector will use the scores to determine the following ratings:

RATING	SCORE
A	≥ 90
B	80 - 89.9
C	70 - 79.9
D	60 - 69.9
F	< 60

Rating A. The project is in compliance. Minor corrective action may be necessary.

Rating B. Indicates that the project is in compliance; however, corrective action is needed

Rating C. Indicates that the project is in compliance; however, deficiencies noted require correction. Shutdown conditions as described elsewhere herein could arise quickly. Project will be reinspected within 72 hours.

Rating D. Indicates that the project is in noncompliance. The Administration will shut down all earthwork operations. All work efforts shall focus on correcting erosion and sediment control deficiencies. The project will be reinspected within 72 hours. All required corrective actions shall be completed within the 72 hour period for the project to be upgraded to a 'B' rating. Failure to upgrade the project to a 'B' rating will result in the project being rated an 'F'. Liquidated damages will be imposed for each day the project has a 'D' rating. Refer to Shutdowns elsewhere in this Specification for additional requirements.

Rating F. Indicates a score less than 60 or the appropriate permits and approvals have not been obtained; demarcated limits of disturbances, wetland and wetland buffers, floodplains, and tree protection areas as specified in Section 107; or is not proceeding in conformance with the approved Erosion and Sediment Control Plan and schedules. An 'F' rating indicates that the project is in noncompliance. The Administration will shut down the entire project until the project receives a 'B' rating. All work efforts shall focus on correcting erosion and sediment control deficiencies. Liquidated damages will be imposed for each day the project has an 'F' rating.

Shutdowns. When a 'C' rating is given to a project, the Contractor shall have all deficiencies corrected within 72 hours. The project will be reinspected at the end of this period. If it is found that the deficiencies have not been satisfactorily corrected, a 'D' rating will be given and all earthwork operations will be shut down until the project receives a 'B' rating.

When a consecutive 'C' rating is given for other deficiencies and the original deficiencies were corrected, the Contractor will be alerted that their overall effort is marginal and a shut down of all earthwork operations is imminent if erosion and sediment control efforts do not substantially improve within 72 hours. The project will be reinspected at the end of this period. If it is found that the deficiencies have not been satisfactorily corrected or other deficiencies are identified by the Quality Assurance Inspector that results in a score of less than 80 on Form No. OOC61, a 'D' rating will be given and all earthwork operations will be shut down until the project receives a 'B' rating.

When a disregard for correcting these deficiencies is evident, an 'F' rating will be given and the entire project will be shut down until the project receives a 'B' rating. When degradation to a resource could occur, or if the Contractor is unresponsive to direction to take corrective action, the Administration may elect to have these corrective actions performed by another contractor or by Administration maintenance staff. All costs associated with this work will be billed to the original Contractor in addition to liquidated damages.

Incentive Payment/Liquidated Damages. The Administration has included an incentive payment to the Contractor. When an average score equal to or greater than 85 for the entire rating quarter is given to the project by the Quality Assurance Inspector the quarterly incentive payment will be made to the Contractor within 60 days after the end of the rating quarter. No incentive will be paid for partial quarters or for quarters with less than four inspections. No incentives will be paid for any quarter that liquidated damages are imposed. A rating quarter consists of three months. The first quarter begins with the month the Notice to Proceed is issued for the project. When a project does not receive a 'D' or 'F' rating and the overall average score given to the project by the

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Quality Assurance Inspector is equal to or greater than 85 the final incentive payment will be made to the Contractor at final project close-out. If a time extension is granted to the Contract, additional quarterly incentive payments will be drawn from the final incentive payment.

When a 'D' or 'F' rating is given to the project by the Quality Assurance Inspector for any inspections; the Administration will impose liquidated damages on the Contractor. Payment of the liquidated damages shall be made within thirty days from imposition of the liquidated damages and shall not be allowed to accrue for consideration at final project close-out.

When the project receives two 'F' ratings the erosion and sediment control certification issued by the Administration shall be revoked from the project superintendent and the Erosion and Sediment Control Manager for a period of not less than six months and until successful completion of the Administration's Erosion and Sediment Control Certification Program. Neither the project superintendent nor the Erosion and Sediment Control Manager shall be allowed to oversee the installation and maintenance of erosion and sediment controls during the period the certification is revoked on any project of the Administration. The Contractor shall immediately provide certified personnel to replace the project superintendent and the Erosion and Sediment Control Manager. Work may not commence until the certified personnel are in place.

308.01.03 Incentive/Liquidated Damages Payments. The total incentive awarded for this Contract will not exceed _____ (Payment A). The quarterly incentive payment for this contract is _____ (Payment B). A final incentive payment for this contract is _____ (1/2 Payment A) less the total quarterly incentives paid during a contract extension.

For each day that the project has a 'D' rating the Contractor and/or his surety shall be liable for liquidated damages in the amount of _____ (Payment D) per day. Failure to upgrade the project to the minimum of a 'B' rating within 72 hours will result in the project being rated 'F'.

For each day that the project has an 'F' rating the Contractor and/or his surety shall be liable for liquidated damages in the amount of _____ (Payment F) per day.

308.03 CONSTRUCTION.

245 **DELETE:** 308.03.01 Contractor Responsibilities its entirety.

INSERT: The following.

308.03.01 Contractor Responsibilities. The Contractor shall demarcate all wetlands, wetland buffers, floodplains, tree protection areas, and the Limit of Disturbance (LOD) as specified in Section 107. Prior to beginning any earth disturbing activity, the Contractor shall have all demarcated wetlands, wetland buffers, floodplains, tree protection areas, and LOD inspected and approved by the Engineer. The Contractor shall construct all erosion and sediment control measures in conformance with 308.01.01. The Contractor shall have all control measures inspected and approved by the Engineer prior to beginning any other earth disturbing activity. The Contractor shall ensure

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that all runoff from disturbed areas is directed to the sediment control measures. The Contractor shall not remove any erosion or sediment control measure without the approval of the Engineer and MDE. Refer to GP-7.12 for unforeseen conditions.

246 **DELETE:** 308.03.04 Schedule in its entirety.

INSERT: The following.

308.03.04 Schedule. Within 14 days after the Notice of Award, the Contractor shall submit an Erosion and Sediment Control Schedule to implement the E & S Plan to the Administration and the MDE. The schedule shall indicate the sequence of construction, implementation and maintenance of controls, temporary and permanent stabilization, and the various stages of earth disturbance. After the schedule is approved by the Administration, it will be forwarded to MDE for approval. The schedule shall, at least include the following:

- (a) Demarcation of all wetlands, wetland buffers, floodplains, tree protection areas, and the LOD prior to any earth disturbing activity.
- (b) Clearing and grubbing of areas necessary for installation of perimeter controls specified in the Contract Documents.
- (c) Construction of perimeter controls specified in the Contract Documents.
- (d) Remaining clearing and grubbing.
- (e) Roadway grading (including off-site work).
- (f) If applicable, utility installation and whether storm drains shall be used or blocked after construction.
- (g) Final grading, landscaping, and stabilization.
- (h) Removal of perimeter controls.

No work shall be started on-site or off-site until the Erosion and Sediment Control schedules and methods of operation have been accepted by the Administration and MDE.

308.03.35 Maintenance of Stream Flow.

253 **ADD:** The following after the second paragraph "Upon completion of...to the Engineer."

The Contract Documents may include stream diversion details for maintenance of stream flow. These details show the locations of the stream diversion system and a system that is approved by the Maryland Department of the Environment.

The Contractor is alerted that the stream diversion system as shown may not be capable of blocking the flow of water through the soil beneath the stream diversion system. The Contractor shall be responsible for designing and providing an effective means of diverting the water away from the designated areas, even though it may require more elaborate diversion systems. The Contractor shall also ensure that all excavation

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performed within the stream diverted area shall be maintained in a dewatered condition, which may require additional pumps, sheeting, shoring, cofferdams, etc. Should the proposed system not perform satisfactorily or additional material and equipment be required to dewater the site and excavated areas, the Contractor shall remedy the stream diversion system at no additional cost to the Administration.

The Contractor shall securely anchor the stream diversion system in place to prevent movement during high water events. Prior to placing the stream diversion system, the Contractor shall submit the proposed method of anchoring to the Engineer and the MDE field inspector for approval. Anchors shall not go beyond the limits of disturbance shown on the Plans or infringe on the channel area available for stream flow. Placing the stream diversion system in the stream without the approval of both the Engineer and the MDE inspector is prohibited. All cost associated with the anchoring of the stream diversion system shall be incidental to the Maintenance of Stream Flow item.

The Contractor shall have the option of proposing an alternate stream diversion system. All conditions stated in the Contract Documents shall apply to the alternate stream diversion system. Any alternate stream diversion system shall be submitted to the Maryland Department of the Environment through the Administration for approval prior to implementation.

308.04 MEASUREMENT AND PAYMENT.

257 **DELETE:** 308.04.26 in its entirety.

INSERT: The following.

308.04.26 Maintenance of Stream Flow will not be measured but will be paid for at the Contract lump sum price. The payment will also include designing and providing diversion structures regardless of the type required to satisfactorily divert the stream flow, excavation, backfill, dewater the site and excavated areas within the stream diversion area, maintenance of the diversion system, sandbags, polyethylene sheeting, diversion pipes, pumps, hoses, connections, and portable sediment tanks. This price will not be adjusted when consideration is given to an alternative stream diversion system regardless of any changes in quantities from that shown in the Contract Documents. The provisions of GP-4.05 will not apply to this work.